

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

CURTIS JORDAN

PLAINTIFF

VS.

CIVIL ACTION NO. 3:06CV233BA

**MISSISSIPPI STATE DEPARTMENT OF
HEALTH, BRIAN W. AMY, JIM CRAIG
and DEBORAH JOY SENNETT**

DEFENDANTS

ORDER

This matter came before the court on the Defendants Brian W. Amy, Jim Craig and Deborah Joy Sennett's Motion to Require Specific Reply to Defendants' Immunity Defenses and to Hold Discovery in Abeyance. Shortly after the Motion was filed, the court stayed this matter, on the basis that an "immunity motion" had been filed. Upon further review, this stay was granted in error. The Motion that has been filed does not raise the Defendants' immunity defenses in a manner that would require disposition on the merits. Instead, the Motion notifies the court that an immunity defense was raised in the Defendants' Answer, and, presumably, will be brought before the District Judge for review at some point. However, permitting a stay at this juncture, with no such motion pending, could have the effect of indefinitely staying the resolution of this case, which would work an injustice on the Plaintiff.

For this reason, the earlier stay order will be vacated, and the Defendants' request for a stay is denied until such time as they raise their immunity defenses by way of a motion to dismiss to the District Judge. However, insofar as the Defendants have requested additional information in reply to their assertion of an immunity defense in their Answer, they are entitled to that information. In response to this Motion, the Plaintiff submitted additional information. The Defendants' rebuttal

does not appear to argue the sufficiency of that information, but only argues that the Plaintiff's responses cannot overcome their immunity defense on the merits. Again, this is a matter for the District Judge to determine if a motion to dismiss is filed. Therefore, the Defendants' Motion will be granted as to their request for additional information, although it appears that the Plaintiff's submission is adequate.

IT IS, THEREFORE, ORDERED that the Defendants Brian W. Amy, Jim Craig and Deborah Joy Sennett's Motion to Require Specific Reply to Defendants' Immunity Defenses and to Hold Discovery in Abeyance is hereby **granted** in part and **denied** in part. The November 13, 2006, Order staying this matter is hereby **vacated**, without prejudice to the Defendants' right to seek a stay after they have filed a motion testing the merits of their immunity defense. The request for additional information is **granted**; however, the Plaintiff will not be required to submit further information.

IT IS SO ORDERED, this the 29th day of December, 2006.

S/Linda R. Anderson

UNITED STATES MAGISTRATE JUDGE